

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

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Legislative Document

No. 964

H.P. 611

House of Representatives, March 2, 2023

**An Act to Eliminate the Paint Stewardship Assessment Paid by
Consumers**

(EMERGENCY)

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

Robert B. Hunt

ROBERT B. HUNT
Clerk

Presented by Representative UNDERWOOD of Presque Isle.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this legislation, which eliminates the fee on architectural paint sold in the
4 State, must take effect before the expiration of the 90-day period in order to immediately
5 protect the home renovation industry from the effects of inflation; and

6 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
7 the meaning of the Constitution of Maine and require the following legislation as
8 immediately necessary for the preservation of the public peace, health and safety; now,
9 therefore,

10 **Be it enacted by the People of the State of Maine as follows:**

11 **Sec. 1. 36 MRSA §1752, sub-§14, ¶B,** as repealed and replaced by PL 2019, c.
12 501, §28, is amended by amending subparagraph (11) to read:

13 (11) Any charge, deposit, fee or premium imposed by a law of this State; or

14 **Sec. 2. 36 MRSA §1752, sub-§14, ¶B,** as repealed and replaced by PL 2019, c.
15 501, §28, is amended by amending subparagraph (12) to read:

16 (12) Federal universal service support funds that are paid directly to the seller
17 pursuant to 47 Code of Federal Regulations, Part 54~~;~~~~0~~~~2~~

18 **Sec. 3. 36 MRSA §1752, sub-§14, ¶B,** as repealed and replaced by PL 2019, c.
19 501, §28, is amended by repealing subparagraph (13).

20 **Sec. 4. 38 MRSA §2144, sub-§1, ¶G,** as enacted by PL 2013, c. 395, §1, is
21 repealed.

22 **Sec. 5. 38 MRSA §2144, sub-§2,** as amended by PL 2015, c. 331, §§5 and 6, is
23 further amended to read:

24 **2. Establishment of a paint stewardship program.** ~~By April 1, 2015,~~ a A producer,
25 a group of producers or a representative organization shall submit a plan for the
26 establishment of a paint stewardship program to the commissioner for approval. The plan
27 must include:

28 A. A description of how the program will collect, transport, recycle and process post-
29 consumer paint from entities covered by the program for end-of-life management to
30 meet the following goals:

31 (1) A reduction in the generation of unwanted paint and the promotion of its reuse
32 and recycling;

33 (2) Provision of convenient and available statewide collection of post-consumer
34 paint from entities covered by the program in all areas of the State;

35 (3) Management of post-consumer paint using environmentally sound
36 management practices in an economically sound manner, including following the
37 paint waste management hierarchy of source reduction, reuse, recycling, energy
38 recovery and disposal;

39 (4) Establishment of a process for managing paint containers collected under the
40 program, including recycling all recyclable containers;

- 1 (5) Negotiation and execution by the operator of agreements to collect, transport,
2 reuse, recycle, burn for energy recovery and dispose of post-consumer paint using
3 environmentally sound management practices; and
- 4 (6) Provision of education and outreach efforts by the operator to promote the
5 program. The education and outreach efforts must include strategies for reaching
6 consumers in all areas of the State and the method the program will use to evaluate
7 the effectiveness of its education and outreach efforts;
- 8 B. Contact information for all persons that will be responsible for the operation of the
9 paint stewardship program and a list of paint brands and producers covered under the
10 program;
- 11 C. Goals as may be practical to reduce the generation of post-consumer paint, to
12 promote the reuse and recycling of post-consumer paint, for the overall collection of
13 post-consumer paint and for the proper end-of-life management of post-consumer
14 paint. The goals may be revised by a representative organization based on information
15 collected annually;
- 16 D. A list of all potential processors that will be used to manage post-consumer paint
17 collected by the paint stewardship program, a list of each collection site name and
18 location that will accept post-consumer paint under the program and a list of all
19 processors that will be used for final disposition;
- 20 E. A method to determine the number and geographic distribution of paint collection
21 sites based on the use of geographic information modeling. The plan must provide that
22 at least 90% of state residents have a permanent paint collection site within a 15-mile
23 radius of their residences, unless the commissioner determines that the 90%
24 requirement is not practicable due to geographical constraints. If the commissioner
25 determines the 90% requirement is not practicable, the commissioner may approve a
26 plan that includes a geographic distribution of paint collection sites that is practicable.
27 The distribution of paint collection sites must include at least one additional paint
28 collection site for each 30,000 residents in a population center that is located to provide
29 convenient and reasonably equitable access for residents within the population center
30 unless otherwise approved by the commissioner;
- 31 F. Identification of the ways in which the program will coordinate with existing solid
32 waste collection programs and events, including strategies to reach the State's residents
33 that do not have a permanent paint collection site within a 15-mile radius of their
34 residences and to ensure adequate coverage of service center communities as defined
35 in Title 30-A, section 4301, subsection 14-A;
- 36 G. A time frame for accomplishing the geographical coverage required under
37 paragraphs E and F;
- 38 H. ~~An~~ The anticipated budget costs for operation of the paint stewardship program,
39 ~~including the suggested method of funding the program, which must include the~~
40 ~~method of calculating a paint stewardship assessment that meets the requirements of~~
41 ~~subsection 4~~ which must be paid for by the State; and
- 42 I. A description of how post-consumer paint collected under this section will be
43 managed at each collection site, including how post-consumer paint will be labeled,

1 provisions for secondary containment and protecting post-consumer paint from
2 weather and a description of how subsection 5-A, paragraph G will be satisfied.

3 **Sec. 6. 38 MRSA §2144, sub-§3**, as enacted by PL 2013, c. 395, §1, is amended to
4 read:

5 **3. Approval of plan.** The commissioner shall review a plan submitted under
6 subsection 2 and make a determination of whether to approve the plan within ~~120~~ 90 days
7 of receipt. The commissioner shall make the plan available for public review for at least
8 30 days prior to making a determination of whether to approve the plan. The commissioner
9 shall approve a plan if the commissioner determines that the plan demonstrates the ability
10 of the paint stewardship program to meet the goals specified in subsection 2, paragraph A
11 and meets the other requirements for submission of a plan under subsection 2. ~~The~~
12 ~~commissioner's approval of a plan must include approval of the method by which the~~
13 ~~program will be funded. The commissioner shall require the person submitting the plan to~~
14 ~~provide an independent audit indicating the appropriateness of the proposed paint~~
15 ~~stewardship assessment.~~

16 If a plan is rejected, the commissioner shall provide the reasons for rejecting the plan to the
17 person submitting the plan. The person submitting the plan may submit an amended plan
18 within 60 days of a rejection.

19 **Sec. 7. 38 MRSA §2144, sub-§4**, as enacted by PL 2013, c. 395, §1, is repealed.

20 **Sec. 8. 38 MRSA §2144, sub-§4-A** is enacted to read:

21 **4-A. Funding of paint stewardship programs.** The State shall pay the costs for
22 operation of paint stewardship programs.

23 **Sec. 9. 38 MRSA §2144, sub-§5, ¶A**, as amended by PL 2013, c. 483, §1, is further
24 amended to read:

25 A. Unless an earlier implementation date is proposed in a plan and approved by the
26 commissioner, ~~beginning July 1, 2015 or~~ 3 months after a plan is approved by the
27 commissioner under subsection 3, ~~whichever occurs later~~, a producer or a
28 representative organization shall implement the plan. If an earlier implementation date
29 is proposed in a plan and approved by the commissioner, a producer or representative
30 organization shall implement the plan beginning on that date.

31 **Sec. 10. 38 MRSA §2144, sub-§5, ¶C**, as enacted by PL 2013, c. 395, §1, is
32 amended to read:

33 C. A producer or a representative organization shall provide consumers and retailers
34 with educational materials regarding the ~~paint stewardship assessment and~~ paint
35 stewardship program. Such materials must include, but are not limited to, information
36 regarding available end-of-life management options for architectural paint offered
37 through the paint stewardship program; and promoting waste prevention, reuse and
38 recycling ~~and notifying consumers that a charge for the operation of the paint~~
39 ~~stewardship program is included in the purchase price of all architectural paint sold in~~
40 ~~the State.~~ These materials may include, but are not limited to, the following:

- 41 (1) Signage that is prominently displayed and easily visible to the consumer;

1 (2) Printed materials and templates of materials for reproduction by retailers to be
2 provided to the consumer at the time of purchase or delivery;

3 (3) Advertising or other promotional materials that include references to the paint
4 stewardship program; and

5 (4) A manual for paint retailers providing collection site procedures to ensure the
6 use of environmentally sound management practices when handling architectural
7 paints.

8 **Sec. 11. 38 MRSA §2144, sub-§5, ¶E**, as amended by PL 2015, c. 331, §7, is
9 further amended by amending subparagraph (4) to read:

10 (4) The total cost of implementing the paint stewardship program, as determined
11 by an independent financial audit ~~funded from the paint stewardship assessment~~.
12 The report of total cost must include a breakdown of administrative, collection,
13 transportation, disposition and communication costs;

14 **Sec. 12. 38 MRSA §2144, sub-§5, ¶E**, as amended by PL 2015, c. 331, §7, is
15 further amended by amending subparagraph (7) to read:

16 (7) ~~Based on the paint stewardship assessment collected by the paint stewardship~~
17 ~~program, the~~ The total volume of architectural paint sold in the State during the
18 preceding year;

19 **Sec. 13. 38 MRSA §2144, sub-§5, ¶G**, as enacted by PL 2013, c. 395, §1, is
20 amended by repealing subparagraph (1).

21 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
22 takes effect when approved.

23 SUMMARY

24 This bill eliminates the paint stewardship assessment, which is the amount added to the
25 purchase price of architectural paint sold in the State to cover the cost of collecting,
26 transporting and processing post-consumer paint under a paint stewardship program, and
27 instead requires the State to pay the costs. It also changes from 120 days to 90 days the
28 time within which the Commissioner of Environmental Protection must determine whether
29 to approve a plan to establish a paint stewardship program.